

## **Subcommittee on Financial Reform**

### **Staff Report on Cities with Balanced Budget Requirements by James Ingram**

Per request of the Subcommittee on Financial Reform, the staff has assembled comparative information regarding which cities have balanced budget requirements in their charters. For the purposes of this report, we examined strong mayor cities in the United States and California. The sample includes all strong mayor cities among the largest 40 U.S. cities, and all strong mayor cities among California's 13 largest cities by population.

#### *Cities with Charters That Require Balanced Budgets*

New York City  
Philadelphia  
Nashville-Davidson  
Denver  
New Orleans  
Los Angeles  
San Diego  
San Francisco  
Oakland  
Fresno

#### *Cities with Charters Not Expressly Requiring Balanced Budgets*

Detroit  
Columbus  
Boston  
Cleveland

#### *Details on the Cities Surveyed*

1. New York City Charter Section 258 provides:

**Standards for budget and financial plan.** a. The operations of the city shall be such that, at the end of the fiscal year, the results thereof shall not show a deficit when reported in accordance with generally accepted accounting principles. The mayor shall take all actions necessary in accordance with the provisions of the charter, including but not limited to section one hundred six, or other applicable law to ensure that the city is in compliance with this subdivision.

b. Pursuant to the procedures contained in subdivision c of this section, each year the mayor shall develop, and from time to time modify, a four year financial plan. Each such financial plan and financial plan modification shall comply with the requirements of subdivision d of this section and shall conform to the following standards: (1) For each fiscal year, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and would permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles.

(2) The city shall issue no obligations which shall be inconsistent with the financial plan prepared in accordance with this section.

(3) Provision shall be made for the payment in full of the debt service on all bonds and notes of the city and for the adequate funding of programs of the city which are mandated by state or federal law and for which obligations are going to be incurred during the fiscal year.

(4) All projections of revenues and expenditures contained in the financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the city to be conducted within the cash resources so projected.

(5) A general reserve shall be provided for each fiscal year to cover potential reductions in projected revenues or increases in projected expenditures during each such fiscal year. The amount provided for such general reserve shall be estimated in accordance with paragraph four of this subdivision, but in no event shall it be less than one hundred million dollars at the beginning of any fiscal year.

(6) In the event that the results of the city's operations during the preceding fiscal year have not comported with subdivision a of this section, the first fiscal year included in any financial plan shall make provision for the repayment of any deficit incurred by the city during the preceding fiscal year.

c. The financial plan shall be developed and may from time to time be modified, in accordance with the following procedures:

(1) The mayor shall, in conjunction with the preliminary budget prepared pursuant to section one hundred one, prepare a financial plan covering the four ensuing fiscal years (the first year of which is the year for which such preliminary budget is being prepared) as well as updating the current fiscal year.

(2) After the preparation by the mayor of a financial plan in accordance with the preceding paragraph, the mayor shall reexamine, at least on a quarterly basis, the projections of revenues and expenditures and other estimates contained in the financial plan, and shall prepare modifications in accordance with the following procedures:

(a) The budget message, issued pursuant to section two hundred fifty of this chapter, shall include an update of the financial plan covering the four ensuing fiscal years (the first year of which is the year for which such budget message is being prepared) as well as an update for the current fiscal year.

(b) Not later than thirty days after the budget is finally adopted, the mayor shall issue an update of the financial plan covering the four ensuing fiscal years (the first year of which shall be the year for which such budget has been adopted) as well as an update for the fiscal year that is ending or has just ended. Such update shall reflect changes which were made in the budget in accordance with sections two hundred fifty-four and two hundred fifty-five; provided, however, that the budget adopted in accordance with such sections shall be consistent with the standards applicable to the financial plan set forth in this section.

(c) During the second quarter of the fiscal year, the mayor shall issue an update of the financial plan covering the fiscal year in which such quarter occurs and the three ensuing fiscal years.

(d) In addition, on such schedule as the mayor deems appropriate, the mayor may issue further updates of the financial plan during the fiscal year.

d. The financial plan shall include projections of all revenues, expenditures and cash flows (including but not limited to projected capital expenditures and debt issuances) and a schedule of projected capital commitments of the city. In addition, each financial plan and financial plan modification shall include a statement of the significant assumptions and methods of estimation used in arriving at the projections contained therein.

e. Notwithstanding any inconsistent provision of this charter, in the event of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the city, if the mayor determines that immediate compliance with such change will have a material effect on the city's

budget over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the mayor may authorize and approve a method of phasing the requirements of such change into the budget over such reasonably expeditious time period as the mayor deems appropriate.

f. The powers, duties, and obligations set forth in this section shall be subject to the powers, duties, and obligations placed upon any state or local officer or agency, including but not limited to the New York state financial control board, by or pursuant to the New York State Financial Emergency Act for the City of New York, while such act remains in effect."

2. Philadelphia Charter Section 2-302 provides:

"2-302. Balancing the Budget.

Not later than the passage of the annual operating budget ordinance, the Council shall ordain such revenue measures as will, in the opinion of the Mayor, yield sufficient revenue to balance the budget. For this purpose new sources of revenue or increased rates from existing sources of revenue not proposed by the Mayor shall be deemed to yield in the ensuing fiscal year such amounts as the Mayor shall determine. The annual operating budget ordinance shall not become effective and the City Controller shall not approve any order for any expenditure thereunder until the Council has balanced the budget."

3. Detroit's Charter does not appear to require a balanced budget.

4. Columbus's Charter does not appear to require a balanced budget.

5. Nashville-Davidson's Charter Article 6 provides for balancing the city-county's budget in four separate sections:

"Sec. 6.03. Scope of the annual operating budget.

Section I of the annual operating budget shall apply only to the general services district and shall deal with those services and functions appertaining to the general services district, as set out by this Charter, or by ordinance of the council.

Section II of the annual operating budget shall apply only to the urban services district and shall deal with those services and functions appertaining to such urban services district, as set out in this Charter, or by ordinance of the council.

Each of the above described sections of the annual operating budget shall contain with respect to each of the operating funds of the metropolitan government to which they are applicable:

(a) An estimate of the unencumbered fund balance or deficit at the beginning of the ensuing fiscal year, and the amount of any reserves for designated purposes or activities includable in the operating budget.

(b) A reasonable estimate of revenues to be received during the ensuing year, classified according to source; but the estimated revenues from current and from delinquent property taxes shall not exceed the percentage of the total receivable from each such source collected during the last completed fiscal year; or the current fiscal year.

(c) Proposed expenditures for each organizational unit and activity in accordance with the established classification of accounts, including those capital outlays which are to be financed from the revenues of the ensuing year, and including all debt service requirements in full for such fiscal year payable from such fund.

In no event shall the total proposed expenditures from any fund exceed the total anticipated revenues plus the estimated unappropriated surplus, or fund balance, and applicable reserves and less any estimated deficit at the end of the current fiscal year.

**Sec. 6.06. Action by council on operating budget.**

After the conclusion of the public hearings, the council may amend the operating budget proposed by the mayor; except, that the budget as finally amended and adopted must provide for all expenditures required by law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year as certified by the director of finance. Neither shall the council alter the estimates of receipts or other fund availability included in the budget document except to correct errors and omissions, in which event a full explanation shall be spread on the minutes of the council. In no event shall the total appropriations from any fund exceed the estimated fund balance, reserves and revenues, constituting the fund availability of such fund.

The council shall finally adopt an operating budget for the ensuing fiscal year not later than the thirtieth day of June, and it shall be effective for the fiscal year beginning on the following July 1st. Such adoption shall take the form of an ordinance setting out the estimated revenues in detail by source and making appropriations according to fund and by organizational unit, purpose or activity as set out in the budget document. If the council shall fail to adopt a budget prior to the beginning of any fiscal year, it shall be conclusively presumed to have adopted the budget as submitted by the mayor.

A copy of the adopted budget, certified by the metropolitan clerk, shall be filed in the office of the director of finance.

The amount set out in the adopted operating budget for each organizational unit, purpose or activity shall constitute the annual appropriation for such item, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriation, or allotment thereof, to which it is chargeable. This shall not preclude the impoundment of funds or additional appropriations as provided herein.

**Sec. 6.07. Property tax levies.**

The council shall levy an annual tax on real and personal property and merchants' ad valorem in the general services district, and the tax levy ordinance shall be the next order of business of the council after the adoption of the operating budget. The tax rate set by such ordinance shall be in two (2) parts; the general tax rate and the school tax rate.

The general tax rate set by such ordinance shall be such that a reasonable estimate of revenue from the levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated with the exception of the amount appropriated for schools and to provide in addition, a reasonable amount of working capital for each of the several funds.

The school tax rate set by the ordinance shall be such that a reasonable estimate of revenue from the levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for schools and to provide in addition, a reasonable amount of working capital.

After the council has approved the annual operating budget of the urban services district, said council shall determine and declare the amount of revenue which must be produced from a tax levy upon the real and personal property and merchants' ad

valorem within the urban services district. The urban council shall thereupon convene and it shall have a mandatory obligation by resolution to levy a property tax adequate with other available funds to finance the budget for urban services, as determined by the council; subject, however, to the requirements of section 1.04 of this Charter with respect to the tax on property in the newly annexed areas. The willingness and ability of citizens to bear the burden of tax increases should always be considered. Therefore, notwithstanding any provisions above, real property tax rates shall not exceed the maximum rates approved by the voters of the county in a referendum. Such referendum may be authorized either by the mayor or by a majority vote of the council no more than once each calendar year pursuant to Tennessee Code Annotated section 2-3-204. The referendum shall read "The maximum real property tax rates for Davidson County shall be increased to:" followed by a list of rates. Voters shall be provided the two choices of FOR and AGAINST. The real property tax rates in effect as of November 7, 2006, shall be the maximum rates allowed until the first referendum occurs.

Sec. 6.09. Impoundment of funds.

Upon certification of the director of finance that the revenues or other resources actually realized with respect to any fund are less than was anticipated and are insufficient to meet the amounts appropriated from such fund, it shall be the duty of the mayor to impound such appropriations as may be necessary to prevent deficit operation."

6. Boston's Charter does not appear to require a balanced budget.

7. Denver's city-county Charter Sections 7.1.4 and 7.4.1 provide, respectively:

"Balanced budget; emergencies; contingency reserve.

The budget proposed by the Mayor shall not propose expenditures in excess of estimated opening balances and anticipated income; however, in estimating, the Mayor may reduce the anticipated income from property taxes by an amount for uncollectible taxes. In the general fund the budget estimates for the ensuing year shall include an amount as a year-end closing balance which amount shall not be expended except for emergencies approved by a two-thirds vote of Council, within the fiscal year to which the proposed budget applies but may be considered as income available for expenditures in preparation of the proposed budget for the following year. The proposed budget for the general fund shall also include an amount, not less than two (2) per cent of the total estimated expenditures set forth in the general fund for the ensuing year, for the payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency, after the passage of the annual appropriation ordinance. Revenues received during the year in excess of those projected, or an opening balance larger than projected, will automatically be added to the contingency reserve."

"Property tax levy; mill levy limitation.

The Council, after deducting the amount collectible from other sources, shall levy upon all taxable property, real and personal, within the limits of the City and County, the amount of taxes for City and County purposes necessary to provide for the payment during the ensuing fiscal year, of all properly authorized demands upon the treasury, not exceeding fifteen (15) mills on the dollar for all general City and County purposes upon the total assessed valuation of said property, and shall also, in addition thereto, levy the State and school district taxes. The foregoing limitation of fifteen (15) mills shall not apply to taxes which shall annually be levied by the

Council for the payment of any general obligation bonded indebtedness of the City and County, now existing or hereafter created, or interest thereon, nor for sinking fund, nor for the indebtedness of any municipal corporation or quasi municipal corporation heretofore consolidated with or hereafter incorporated with, or annexed to, the City and County, or of the interest thereon; nor to special assessments for local improvements."

8. Cleveland's Charter does not appear to require a balanced budget.

9. New Orleans Charter, Section 6-102(4) provides:

"Where the estimated revenues from existing sources are insufficient to meet the recommended expenditures, the Mayor shall provide recommendations of new sources of revenues to balance the budget."

10. Los Angeles Charter Sections 331 and 332 require a balanced budget in the same way as San Diego—by requiring that taxation provide sufficient revenue to cover appropriations:

"Tax Levy.

Not earlier than the month of June but not later than the last day of the month in which the statement of property valuations within the City as required by law is received, the Council shall adopt an ordinance levying upon the assessed valuation of the property in the City, in accordance with the provisions of law, a rate of taxation upon each one hundred dollars (\$100) of valuation, which, with the amounts, if any, transferred from the Reserve Fund in or for the current fiscal year subsequent to the adoption of the annual budget and the amount estimated to be received from fines, licenses and other sources of revenue, will be sufficient to raise the amount appropriated in the annual budget."

"Tax Levy - Alternate Method.

If the Council fails to levy a rate of taxation at the time and in the manner provided by the Charter, the Controller shall add to the budget the amount required to meet maturing portions of principal and interest on the bonded indebtedness of the City and of special districts in the City, and any special taxes lawfully imposed, and shall calculate a rate of taxation as provided in Section 331, not exceeding the limit provided by law. The Controller shall give public notice of the rate of taxation by publication in a newspaper of general circulation in the City or by other means provided by ordinance, and the tax rate calculated by the Controller shall be the rate of taxation of the City. The Controller is hereby vested with all necessary legislative power to carry out the provisions of this section."

11. San Diego does provide for a balanced budget at present, based upon several sections of the City's Charter (See the full report for details).

12. San Francisco's city-county Charter Sections 9.101(2) and 9.105 and 9.113(d) provide, respectively:

"The annual proposed budget and appropriation ordinances shall be balanced so that the proposed expenditures of each fund do not exceed the estimated revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the Board of Supervisors the relevant implementing ordinances at the same time the annual budget is submitted."

"No amendment to the appropriations ordinance may be adopted unless the Controller certifies availability of funds."

"No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the Board of Supervisors unless the Controller first certifies to the Board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due."

[Note well that San Francisco also requires a Rainy Day Reserve Fund in Section 9.113.5, as does NYC in the sections of its Charter above.]

13. Oakland's Charter Section 802 provides:

"Levy of Property Tax. Not later than the date set by state law for this purpose, the Council shall by resolution fix the rate of property tax to be levied and levy the tax upon all taxable property in the City. Such rate shall be adequate to meet all obligations of the City for the fiscal year, taking into account estimated revenue from all other sources. Should the Council fail to fix the rate and levy taxes within the time prescribed, the rate for the next preceding fiscal year shall thereupon be automatically effective, and a tax at such rate shall be levied upon all taxable property in the City for the current fiscal year."

14. Fresno's Charter Section 1207 provides:

"TAX LEVY. On or before the last Tuesday in August in each year, the Council shall, by ordinance, levy such tax as may be necessary to meet the appropriations made (less the estimated amount of revenue from other sources), and all sums required by law to be raised on account of the City debt and interest thereon, together with such addition, not exceeding five per cent, as may be deemed necessary to meet commissions, fees and deficiencies from the estimates in the amount of taxes collected."

